



CITY OF
TUCSON
ZONING
EXAMINER'S
OFFICE

Preliminary Report

December 8, 2016

Palice Kino, LLC and Ferr-Conn Partners, LLP
c/o Robert Tucker/Dan Castro
2200 E. River Road Suite 115
Tucson, Arizona 85718

SUBJECT: C9-16-10 Chamberlain – Tucson Boulevard
Re-zoning: from R-1 to I-1
Public Hearing: December 1, 2016

Dear Mr. Tucker and Mr. Castro,

Pursuant to the City of Tucson Unified Development Code and the Zoning Examiner's Rules of Procedures (Resolution No. 9428), this letter constitutes written notification of the Zoning Examiner's summary of findings for rezoning case **C9-16-10 Chamberlain – Tucson Boulevard**. At the expiration of 14 days of the conclusion of the public hearing, the Zoning Examiner's Report (complete with background information, public hearing summary, findings of fact, conclusion, recommendation, and public hearing minutes) to the Mayor and Council shall be filed with the City Manager. A copy of that report can be obtained from either the Planning and Development Services Department (791-5550) or the City Clerk.

If you or any party believes that the Zoning Examiner's recommendation is based on errors of procedure or fact, a written request to the Zoning Examiner for review and reconsideration may be made within 14 days of the conclusion of the public hearing.

The public hearing held by the Zoning Examiner shall constitute the public hearing by the Mayor and Council. However, any person may request a new public hearing before the Mayor and Council. A request for a new public hearing must be filed in writing with the City Clerk within 14 days of the close of the Zoning Examiner's public hearing.

SUMMARY OF FINDINGS

This rezoning is a request by Dan Castro of Rick Engineering Company, Inc. on behalf of property owners Palice Kino LLC and Fen-Conn Partners LLP, to rezone approximately 2.9 acres from R-1 Residential to I-1 Light Industrial zoning. *Plan Tucson* and the *Kino Area Plan* provide policy direction for the rezoning site.

The rezoning site is located on the northeast corner of Tucson Boulevard and Bilby Road, approximately 1400 feet east of Tucson Boulevard right-of-way. According to the Major Streets and Routes Map, Bilby Road is an arterial street with a future right-of-way of 64 feet.

The preliminary development plan (PDP) proposes a two-phase development on 2.9 acres, which is a portion of a larger 39-acre parcel. At build out, the site is proposed to contain a parking lot and a 15,000 square-foot, two-story warehouse building.

Phase I proposes the parking lot with access to Bilby Road. The parking lot will have 177 spaces and serve employees of the Chamberlain facility located north across Rodeo Wash. The parking lot will have perimeter screen walls, landscaping, detention/retention basin, a ten-foot wide pedestrian path along the Rodeo Wash southern boundary, with a pedestrian bridge spanning the Rodeo Wash at the southeast corner of the rezoning site.

Phase II will modify the parking lot by changing 59 spaces into the 15,000 square foot, two-story warehouse building. The building will be fifty feet in height, contain two loading zones and an outdoor open storage area. The site will provide pedestrian connectivity from the building to a sidewalk along Bilby Road and to the pedestrian path and pedestrian bridge associated with the proposed Rodeo Wash improvements.

The site is within the Tucson International Airport (AEZ), CUZ 2 overlay zone, which addresses buildable heights.

Zoning Examiner Hearing December 1, 2016

There were no written approvals or protests at the December 1, 2016 Zoning Examiner's public hearing. Only the applicant's representative spoke. The hearing was closed with the understanding that the representative and staff would finalize an adjustment to the condition regarding a pedestrian bridge. The adjusted condition is included in the recommended rezoning conditions. The applicant agrees with the special conditions.

Surrounding Land Uses

The subject property is currently vacant and zoned R-1. To the north and east is a manufacturing use zoned I-1 and P-I, to the south is a manufacturing use, single family residences and vacant land zoned I-1 and P-I, and to the west is vacant land zoned R-1.

Land Use Plans

Plan Tucson and the *Kino Area Plan (KAP)* provide policy direction for the rezoning site. *Plan Tucson* requires sensitivity to the adjacent residential zone land.

Plan Tucson (PT): The proposed development is consistent with the applicable Land Use, Transportation, and Urban Design Policies (LT) of *Plan Tucson*, and the supporting Guidelines for Development Review. This rezoning site is identified in the Future Growth Scenario, Building Block, being within an existing neighborhood, which is primarily developed and largely built-out with a mix of residential neighborhoods and commercial districts in which minimal new development and redevelopment is expected in the next several decades. The goal is to maintain the character of these neighborhoods, while accommodating some new development and redevelopment and encouraging reinvestment and new services and amenities that contribute further to neighborhood stability. It supports public transit to serve employees especially for proposed large industrial facilities with high numbers of employees.

PT supports the development of industrial facility by having convenient access to highway, rail, or air services and routes. It supports environmentally sensitive design that protects the integrity of existing neighborhoods. *Plan Tucson* Guidelines also protect residential neighborhoods by supporting compatible development, which may include other residential, mixed-use infill and appropriate non-residential land uses.

Kino Area Plan –The *KAP* calls out for the integration of appropriate industrial sites. Park industrial uses are appropriate within or adjacent to high-noise level areas as identified in the *Airport Environs Plan*.

The rezoning site is on the edge of an existing residential neighborhood and the industrial land use area located immediately north and east of the Tucson International Airport, which *KAP* encourages clean and attractive industrial developments.

Industrial development should be compatible with the noise impacts of the airport, and should not interfere with navigation aids, produce smoke emissions or excessive illumination, or allow above ground petroleum storage or explosives manufacturing, or attract birds or other hazards to aircraft.

Land Use Compatibility

The area north of the Tucson International Airport has a mix of park industrial, industrial and residential zones. Land north and northeast of the rezoning site is developed with Park Industrial and Light Industrial zone land uses, with warehouse and manufacturing businesses.

To address and mitigate noise, light, and outdoor open storage yard activities and visual impacts on adjacent (future development) residential zoned land and the Rodeo Wash, policy supports a six-foot wall along with a landscape buffering barrier on the western and northwest sides of the rezoning site and screening along the northern edge of the outdoor storage yard area. Industrial type fencing comprised of barbed wire or razor ribbon is prohibited. Walls visible from the right of way must be graffiti resistant.

The special conditions include during Phase I development to include a dedication of a 50' Non-motorized Trail Easement and construction of Greenway improvements as described in the current *Pima Regional Trails System Master Plan (PRTSMP)* along the Rodeo Wash. Other dimensions of a paved multi-use path and soft path are included.

Drainage/Grading/Vegetation – The site must comply with the Rainwater Harvesting Ordinance (Ord. No. 10957). The design shall promote proper drainage over time to minimize mosquito population. A landscape concept plan was not submitted as part of the rezoning application. The landscape plan should be designed to minimize the Urban Heat Island Effect.

Heat Island Mitigation –The special conditions require tree root zone have a minimum of 300 cubic feet (no deeper than 3 feet) of uncompacted (less than 90%) soil. Standards for greater compaction are also included as an alternative method.

Road Improvements/Vehicular Access/Circulation – The PDP reflects that the proposed parking lot will be accessed from Bilby Road with no additional vehicular access onto adjacent lands. According to the Major Streets and Routes Map, Bilby Road is an arterial street with a future right-of-way of 64 feet.

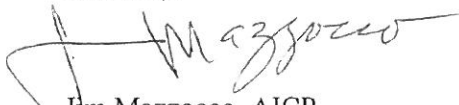
CONCLUSION

The proposal is consistent with *Plan Tucson* and the *Kino Area Plan*. The proposal is within the vicinity of the Tucson International Airport where the common land use development is light industrial and park industrial land uses. The recommended special conditions including the screening and pedestrian improvements mitigate the impact of the proposal. The rezoning is a compatible addition to the surrounding land uses.

RECOMMENDATION

The Zoning Examiner recommends approval of the rezoning subject to the PDSD recommended conditions.

Sincerely,



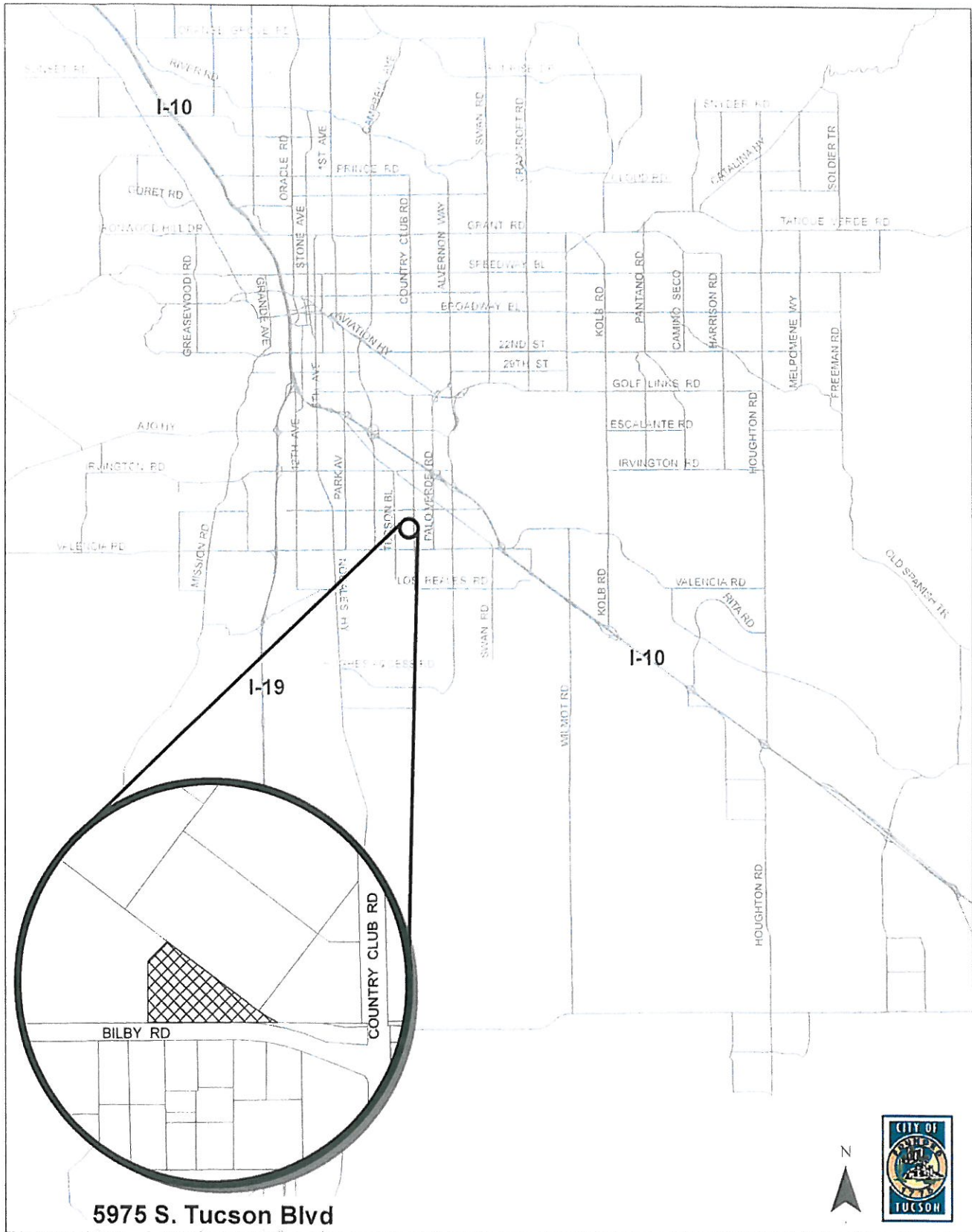
Jim Mazzocco, AICP
Zoning Examiner

ATTACHMENTS:

Case Location Map
Rezoning Case Map
Rezoning Conditions

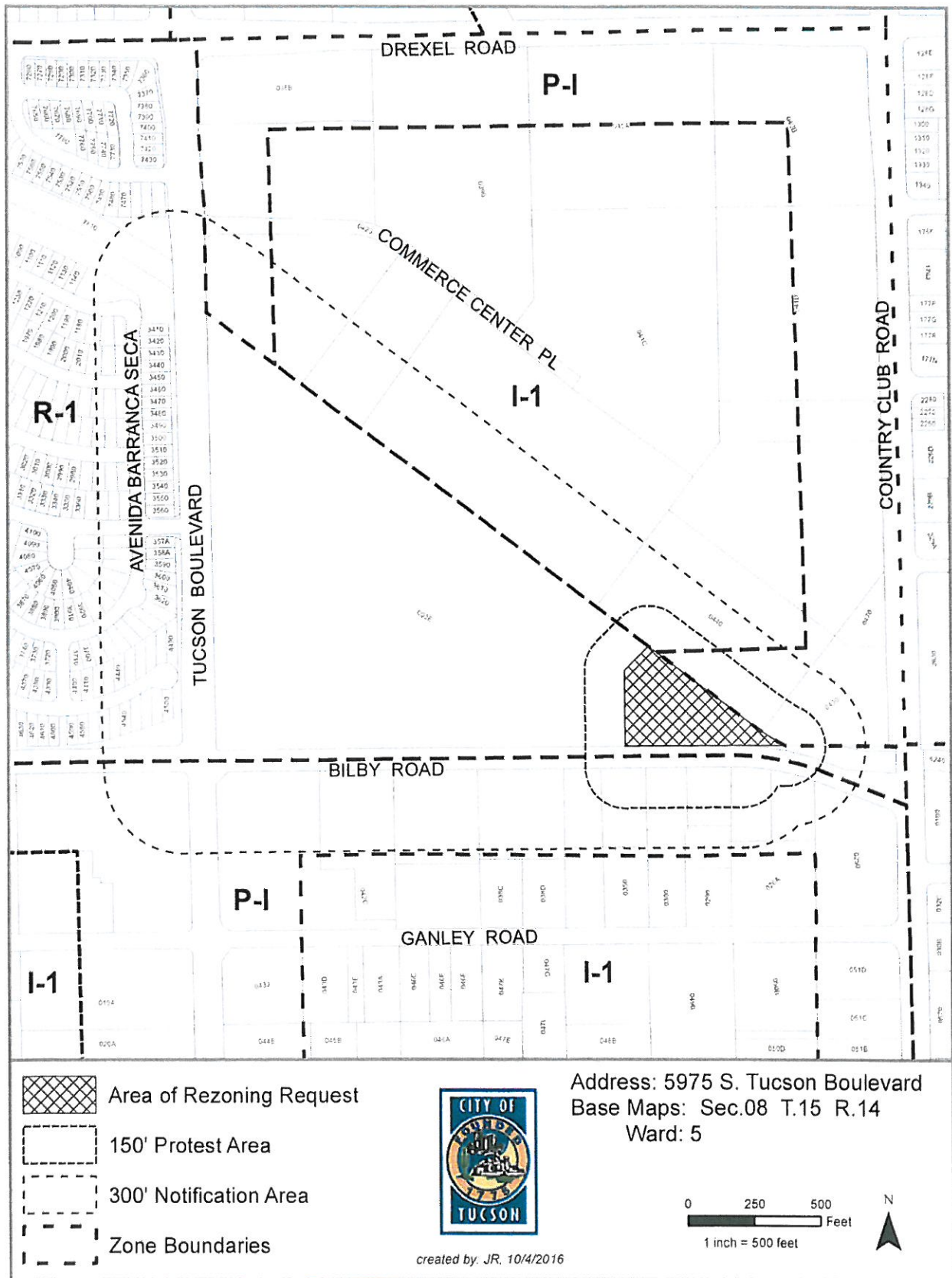
cc: City of Tucson Mayor and Council

C9-16-10 Chamberlain - Tucson Boulevard



C9-16-10 Chamberlain - Tucson Boulevard

Rezoning Request: from R-1 to I-1



PROCEDURAL

1. A development package in substantial compliance with the preliminary development plan dated October 5, 2016, and the design compatibility report dated October 3, 2016, and required reports, are to be submitted and approved in accordance with the *Administrative Manual*, Section 2-06.
2. The property owner shall execute a waiver of potential claims under A.R.S. Sec. 12-1134 for this zoning amendment as permitted by A.R.S. Sec. 12-1134 (I) in the form approved by the City Attorney and titled "Agreement to Waive Any Claims Against the City for Zoning Amendment". The fully executed Waiver must be received by the Planning & Development Services Department before the item is scheduled for Mayor and Council action.
3. Historic or prehistoric features or artifacts discovered during future ground disturbing activities should be reported to the City of Tucson Historic Preservation Officer. Pursuant to A.R.S. 41-865 the discovery of human remains and associated objects found on private lands in Arizona must be reported to the Director of Arizona State Museum.
4. Any relocation, modification, etc., of existing utilities and/or public improvements necessitated by the proposed development shall be at no expense to the public.
5. The owner/developer shall obtain written documentation from the Pima County Regional Wastewater Reclamation District (PCRWRD) that treatment and conveyance capacity is available for any new development within the rezoning area, no more than 90 days before submitting any tentative plat, development plan, sewer improvement plan or request for building permit for review. Should treatment and/or conveyance capacity not be available at that time, the owner/developer shall have the option of funding, designing and constructing the necessary improvements to Pima County's public sewerage system at his or her sole expense or cooperatively with other affected parties. All such improvements shall be designed and constructed as directed by the PCRWRD.
6. Five years are allowed from the date of initial authorization to implement and effectuate all Code requirements and conditions of rezoning.

LAND USE COMPATIBILITY

7. In Phase II development, it shall require any proposed dumpster(s), loading zone(s), and outdoor storage yard to be a minimum of fifty (50) feet from the west and northwest boundary of the rezoning site, and to be identified in the development package.

8. All walls visible from a public right-of-way and/or adjacent to residentially zoned property, are to be graffiti-resistant and incorporate one (1) or more visually appealing design treatments, such as the use of two (2) or more decorative materials like stucco, tile, stone, or brick; a visually interesting design on the wall surface; varied wall alignments, (jog, curve, notch, setback, etc.); and/or trees and shrubs in voids created by the wall variations.
9. In Phase I development, it shall require a decorative masonry wall with a height of six (6) feet constructed along the west and northwest boundary of the rezoning site, and to be identified in the development package, location of wall subject to the Rodeo Wash, Watercourse Amenities, Safety, and Habitat (W.A.S.H.) and Pima Regional Trail System Master Plan requirements. Wall to be identified in the development package.
10. In Phase II development, it shall require an opaque screen with a height of five feet along the full length of the north edge of the outdoor storage yard, except at pedestrian opening for connectivity to Rodeo Wash trail.
11. Industrial type fence material such as, razor ribbon, barbwire, etc., shall be prohibited as perimeter enclosure material.
12. Graffiti shall be removed within seventy-two (72) hours of discovery.
13. Phase I development shall prohibit parking of commercial vehicles on the west two hundred (200) feet of the rezoning site. Development package to identify location of commercial vehicle parking spaces, and on-site signs as permitted by *Sign Code* to direct commercial vehicles to designated commercial parking spaces and identify parking area where commercial vehicle are prohibited to park.

DRAINAGE/VEGETATION/BUFFERS

14. Phase I development shall include a dedication of a 50' Non-motorized Trail Easement and construction of Greenway improvements as described in the current *Pima Regional Trails System Master Plan (PRTSMP)* along the Rodeo Wash. Greenway improvements include a continuous 12' wide paved multi-use path along with associated planting and irrigation systems to be constructed to Tucson Parks and Recreation standards. Planting and irrigation requirements may be waived if significant native vegetation is retained on the site via low-impact routing of the paths. The dedication and design of this area to be coordinated with the Tucson Parks and Recreation department. These site requirements to be identified in the development package.
15. The west rezoning site boundary, adjacent to residentially zoned land shall have a minimum twenty feet wide landscape border, excluding the Rodeo Wash fifty (50) foot W.A.S.H study area.

16. Phase I development shall require either; a pedestrian bridge over the Rodeo Wash or an on-site pedestrian path which connects to a continuous sidewalk system to be located on Bilby Road and Country Club Road right-of-way; as stipulated below:
 - a. If pedestrian bridge option is utilized, bridge will be required to span the 100 year floodplain limits and an Environmental Resource Report (ERR) is required for encroachment into the fifty (50') foot study area from top of bank. Pedestrian bridge shall be constructed with durable materials, such as reinforced concrete and/or steel, using structural design criteria similar to that used for the pedestrian bridges along the LOOP trail; or,
 - b. In lieu of a pedestrian bridge, site shall provide a continuous pedestrian connection to the adjacent Chamberlain facilities located to the north, by use of existing sidewalk along Bilby Road and provide a pedestrian sidewalk on Country Club Road to first paved driveway. Applicant shall build curb and sidewalk on Country Club Road to meet City of Tucson standards. Sidewalk and curb improvements shall start at the northwest corner of Bilby Road and Country Club Road, then north along Country Club Road approximately four hundred and eighty (480) feet to the first paved driveway.
17. Phase I development, shall include a Geotechnical Report required to show infiltration of stormwater retention.
18. Five (5) year total onsite retention is a requirement.

HEAT ISLAND MITIGATION

19. Tree root zone shall be a minimum of 300 cubic feet (no deeper than 3') of uncompacted soil (less than 90% compaction); if utilizing structured/engineered soil where 95% or greater compaction is permitted, then 600 cubic feet of soil (no deeper than 3') shall be required.

ROAD IMPROVEMENTS/VEHICULAR ACCESS/CIRCULATION

20. Dedication of additional right of way, along Bilby Road, in accordance with the *MS&R Plan* requirements.

AGREEMENT TO WAIVE ANY CLAIMS
AGAINST THE CITY FOR ZONING AMENDMENT

This agreement ("**Agreement**") is entered into between _____, as the owner of the property described herein ("**Owner**") and the City of Tucson ("**City**") to waive any and all claims for diminution of value that may be based upon action by the City in response to a request from the Owner. This Agreement is entered into in conformance with A.R.S. §12-1134(I).

The Owner is the holder of fee title to the property located at _____, Tucson, Arizona, (the "**Property**") which is more fully described in the Owner's application to the City in Case C9-16-10 and incorporated herein. The Owner, or the authorized agent of the Owner, has submitted an application to the City requesting that the City rezone the Property. The Owner has requested this action because the Owner has plans for the development of the Property that require the rezoning. The Owner believes that the rezoning of the Property will increase the value and development potential of the Property, and that this outweighs any rights or remedies that may be obtained under A.R.S. §12-1134 et. seq.

By signing this Agreement, the Owner waives any right or claim that may arise under A.R.S. §12-1134, including any claim for the reduction in the value of the Property, as a result of the enactment of the zoning amendment in Case C9-16-10.

The Owner understands that City staff may propose, the Zoning Examiner may recommend and the Mayor and Council may adopt conditions to the requested zoning that limit the potential development of the Property. The Owner acknowledges that the rezoning and conditions are a single, integrated legislative approval. The Owner agrees and consents to all conditions that may be imposed. The Owner retains the right to withdraw the rezoning application prior to a vote by the Mayor and Council or to decline to implement the necessary requirements to effectuate the zoning if the Owner disagrees with any conditions that are proposed or approved. If the Owner does not withdraw the application, the Owner shall be deemed to have accepted all adopted conditions to the requested zoning. If the Owner withdraws the application or does not effectuate the new zoning, this Agreement is null and void.

This Agreement is entered into in Arizona and will be construed and interpreted under the laws of the State of Arizona. The Owner has agreed to the form of this Agreement provided and approved by the City Attorney. The Owner has had the opportunity to consult with an attorney of the Owner's choice prior to entering this Agreement and enters it fully understanding that the Owner is waiving the rights and remedies as set forth herein.

Upon execution, this Agreement shall be recorded in the Office of the Pima County Recorder.

The Owner warrants and represents that the person or persons listed herein as the Owner is/are the owner in fee title of the Property. The Owner further agrees to indemnify

and hold the City of Tucson, its officers, employees and agents harmless from any and all claims, causes of action, demands, losses, costs and expenses based upon an alleged reduction of value of the Property as a result of the City's action in Case C9-16-10.

Dated this _____ day of _____, 20____.

Owner: _____
(Name of Individual, Corporation, Partnership, or
LLC, as applicable)

Owner: _____
(Name of Individual, Corporation, Partnership, or
LLC, as applicable)

By: _____
(Signature of Owner or Authorized Representative, if
applicable)

By: _____
(Signature of Owner or Authorized Representative, if
applicable)

Its: _____
(Title of Individual Signing in Representative Capacity)

Its: _____
(Title of Individual Signing in Representative Capacity)

State of Arizona)
County of _____)

On this _____ day of _____, 20____, before me personally appeared _____ on the basis of satisfactory evidence to be the person who he or she claims to be, and acknowledged that he or she signed the above/attached document.

Notary Public

My Commission expires:

City of Tucson, an Arizona municipal Corporation:

By: _____
Planning & Development Services Department

This form has been approved by the City Attorney.